

Appl. No. 10/717,098  
Docket No. 4981C2C  
Amdt. dated January 29, 2009  
Reply to Office Action mailed on October 30, 2008  
Customer No. 27752

## REMARKS

### Claim Status

Claims 1-20 are pending in the present application. No claims are amended herein. No additional claims fee is believed to be due.

### Rejection Under 35 U.S.C. § 103(a) Over Mason

Claims 1, 3, 5-11, and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,559,648 issued to Mason (hereinafter "Mason"). It is respectfully submitted that the Office Action has not established a prima facie case of obviousness, because Mason does not teach or suggest all the claim limitations recited in independent claim 1. (*See* MPEP § 2143). Further, it would not be obvious to modify Mason to include such claim limitations.

Independent claim 1 recites a disposable absorbent article having a longitudinal axis and comprising a fecal material storage element "having laterally opposing longitudinal side edges disposed on opposing sides of the longitudinal axis, the fecal material storage element extending contiguously between the longitudinal side edges and across the longitudinal axis." (emphasis added). The language of claim 1 unambiguously recites that the fecal material storage element of claim 1 extends contiguously across the longitudinal axis of the absorbent article. (emphasis added).

In contrast to claim 1, Mason does not teach or suggest a material storage element that extends contiguously across the longitudinal axis of an absorbent article. Instead, Mason discloses a diaper including an absorbent pad 10 with laterally spaced panel portions 25 folded inwardly to overlie a central section of the pad. (*See* Col. 2, ll. 6-27). In support of the claim rejections, the Office Action has characterized the panel portions 25 of Mason as the claimed fecal storage element. As acknowledged by the Office Action, the panel portions 25 of Mason do not extend contiguously across the longitudinal axis.

Nonetheless, the Office Action now asserts that it would have been obvious to modify Mason to correspond with the structure recited in the claims because the present

invention is just making integral what had been made two pieces, which is within the level of one of ordinary skill in the art. (See Office Action, pages 2-3). However, the prior art must be considered in its entirety, including disclosures that teach away from the claimed invention, and a proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference. (See MPEP 2145X.D.) Here, the Office Action has not considered Mason in its entirety, and in particular, portions of Mason that show the proposed modification would render the separation of the panel portions unsatisfactory for their intended purpose.

In particular, Mason provides that the panel portions 25 do not meet in the central portion of the pad, and as such, are separated by a channel 30. (See Col. 2, ll. 6-27). Figures 1 and 2 of Mason are reproduced below with reference numbers of particular interest being described for clarity.

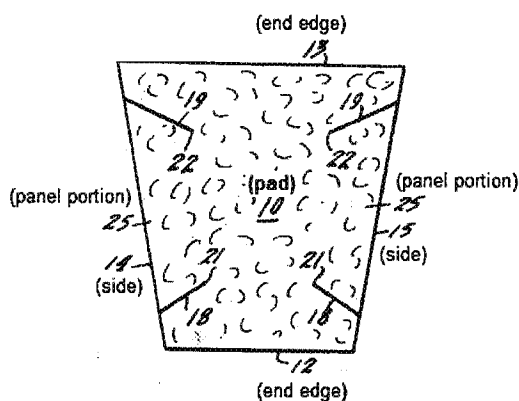


FIG. 1

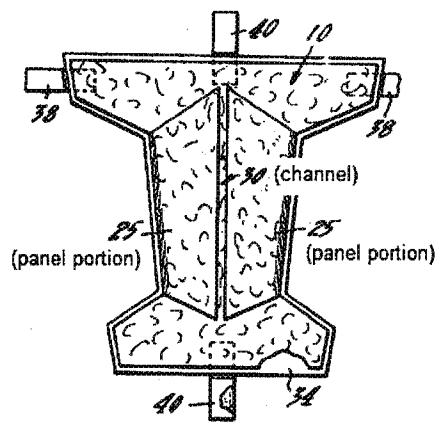
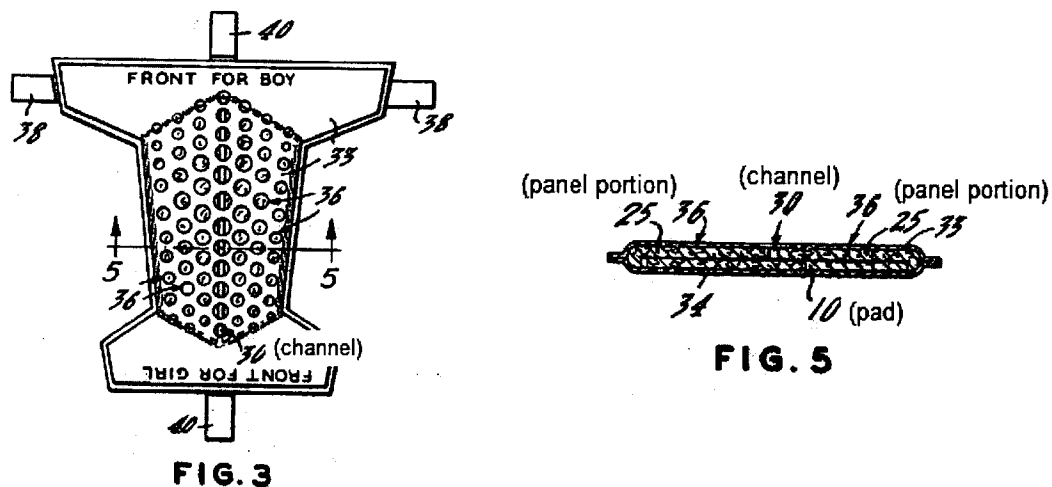


FIG. 2

With reference to Figures 1 and 2, Mason states that "The areas 25 of the pad adjacent the respective side edges and between the slits 18 and 19 constitute panel portions which may be folded inwardly to overlie the main central section of the pad, as shown in FIG. 2, thus doubling the thickness and absorptive capacity of the pad in this area." (See Col. 2, ll. 23-27). Mason also states: "It will be noted, however, that, due to the particular placement of the points 21 and 22 marking the inner limits of the slits, the infolded panel

portions 25 just fail to meet in the central portion of the pad, leaving a narrow channel 30  
running lengthwise of the pad in its central area for a purpose to be fully set forth  
hereinafter.” (emphasis added). (See Col. 2, ll. 28-33). For additional clarity, Figures 3  
and 5 of Mason are reproduced below with reference numbers of particular interest being  
labeled.



As clearly shown above in Figures 3 and 5, the panel portions 25 of the absorbent pad 10 are separated by a channel 30.

With particular regard to the channel 30, Mason states:

The narrow central channel 30 is covered only by the moisture-permeable liner sheet 33. This channel serves to direct and disperse fluid waste material entering the pad through the liner sheet so that the fluid is contacted by a greater area of absorptive material rather than tending to saturate a smaller localized area of the pad. This prevention of over saturating a localized area of the pad by dispersing the waste fluid throughout substantially the entire pad area increases the overall efficiency of the diaper and prolongs the period of its effectiveness in use.

(See Col. 2, ll. 69 through Col. 3, ll. 3). Mason also states:

A centrally located channel area assists in distributing both liquid and semisolid waste material throughout the absorptive pad in order to achieve

maximum absorptive capacity from a given quantity of the absorptive component.

(See Col. 1, ll. 58-61)

As such, Mason teaches that the separation of the panel portions 25 and the resulting channel 30 therebetween increases the overall efficiency of the diaper and prolongs the period of its effectiveness in use. Therefore, Mason teaches away from a modification that includes making the panel portions 25 integral and teaches away from the claimed invention.

Therefore, for at least the reasons above, Mason fails to teach or suggest all the limitations recited in claim 1 and also teaches away from the invention of claim 1.

Next, independent claim 1 recites that “at least a portion of one of the edges of the fecal material storage element being disposed distally of a portion of the corresponding one of the edges of the absorbent core.” (emphasis added). However, no edges of the panels 25 of Mason are disposed distally of corresponding side edges of the absorbent core. Instead, as best illustrated above in Figures 2 and 5 of Mason, the inner longitudinal edges of the panels 25 that border the channel 30 are disposed proximally of the longitudinal side edges of the absorbent pad, and the outer longitudinal side edges of the right and left panels 25 are the same longitudinal side edges of the absorbent pad 10. In addition, the front and rear lateral side edges of the panels 25 are disposed proximally of the front and rear lateral side edges of the absorbent pad. Therefore, for at least this reason, Mason fails to teach or suggest all the limitations recited in claim 1.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claim 1 is patentable under 35 U.S.C. § 103(a) over Mason. Claims 3, 5-11, and 14 depend from and include all the limitations of claim 1. As such, for at least the same reasons discussed above with reference to claim 1, claims 3, 5-11, and 14 are also patentable under 35 U.S.C. § 103(a) over Mason.

Therefore, it is believed that claims 1, 3, 5-11, and 14 are in form for allowance and such indication is respectfully suggested.

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Rejection Under 35 U.S.C. § 103(a) Over Mason in view of Matthews

Claims 2, 4, 12, 13, and 15-20 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Mason in view of U.S. Patent No. 4,397,644 issued to Matthews (hereinafter “Matthews”). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See MPEP § 2143). It is respectfully submitted that the Office Action does not establish a prima facie case of obviousness with respect to claims 2, 4, 12, 13, and 15-20.

In the Office Action, it is asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to bond the topsheet and fecal material storage element of Mason at discrete sites leaving open areas in the range taught by Matthews. As discussed above, Mason does not teach or suggest all the claim limitations of independent claim 1. Modifying Mason by bonding the topsheet and the panel portions of the absorbent core with the teachings of Matthews does not correct the deficiencies of Mason. As such, it is believed that independent claim 1 is not obvious under 35 U.S.C. § 103(a) over Mason in view of Matthews. Claims 2, 4, 12, and 13 depend from and include all the limitations of claim 1. As such, for at least the same reasons discussed above with reference to claim 1, claims 2, 4, 12, and 13 are also patentable under 35 U.S.C. § 103(a) over Mason in view of Matthews.

Independent claims 15 and 17 are recite the same limitations discussed above with reference to the rejection of independent claim 1 over Mason, and thus, are believed not obvious under 35 U.S.C. § 103(a) over Mason in view of Matthews. Claims 16 and 18-20 depend from and include all the limitations of claims 15 and 17, respectively. As such, for at least the same reasons discussed above with reference to claims 15 and 17, claims 16 and 18-20 are also patentable under 35 U.S.C. § 103(a) over Mason in view of Matthews.

Accordingly, it is believed that claims 2, 4, 12, 13, and 15-20 are in form for allowance and such indication is respectfully suggested.

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Rejection Under 35 U.S.C. § 103(a) Over Mason in view of Matthews and further in view  
of Jones and further in view of Meyer

Claims 13, 15, and 16 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Mason in view of Matthews and further in view of U.S. Patent No. 3,593,717 issued to Jones (hereinafter “Jones”) and further in view of U.S. Patent No. 4,798,603 issued to Meyer et al. (hereinafter “Meyer”). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (*See* MPEP § 2143). It is respectfully submitted that the Office Action does not establish a prima facie case of obviousness with respect to claims 13, 15, and 16.

In the Office Action, it is asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mason and Matthews to include apertures having a depth of at least 0.75 mm as taught by Jones. The Office Action also asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mason, Matthews, and Jones to maintain a blind-hole depth at a compression level taught by Meyer.

As discussed above, independent claims 1 and 15 are believed patentable under U.S.C. § 103(a) over the combination of Mason and Matthews. Modifying the asserted combination of Mason and Matthews with aperture depths and compression levels in accordance with Jones and Meyer does not correct the deficiencies of Mason and Matthews. As such, it is believed that independent claims 1 and 15 are not obvious under 35 U.S.C. § 103(a) over Mason in view of Matthews and further in view of Jones and further in view of Meyer. Claims 13 and 16 depend from and include all the limitations of claims 1 and 15, respectively. As such, for at least the same reasons discussed above with reference to claims 1 and 15, claims 13 and 16 are also patentable under 35 U.S.C. § 103(a) over Mason in view of Matthews and further in view of Jones and further in view of Meyer.

Accordingly, it is believed that claims 13, 15, and 16 are in form for allowance and such indication is respectfully suggested.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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